CHARGE: The complaint alleged that the defendant was engaged in the business of preparing, canning, and distributing canned tomatoes and that the defendant had on hand, at the James & James cannery, 7,500 cases, each containing 24 1-lb. cans of tomatoes, and bearing code numbers 8T50, 8T80, 8T81, 8T82, 8T90, which would, in the usual and ordinary course of business, be introduced and delivered for introduction into interstate commerce by the defendant, and which constituted a menace to interstate commerce in that they were adulterated under 402(a)(3) by reason of the presence of fly eggs and maggots in the tomatoes.

The complaint alleged further that the defendant was well aware of the requirements of the Act; that factory inspections of the defendant's cannery were made by the Food and Drug Administration on 8-10-54 and 8-20-58, at which times the defendant was warned against the interstate shipment of adulterated canned tomatoes and of the infestation of raw stock tomatoes with fly eggs and maggots; and, that on 8-26-58, after the inspection of 8-20-58, the defendant had shipped 350 cases of canned tomatoes in interstate commerce, which canned tomatoes were seized on 11-3-58, as being violative of 402(a)(3) by reason of the presence of fly eggs and maggots.

DISPOSITION: The court entered a temporary restraining order on 12-24-58, and a preliminary injunction on 1-2-59. On 1-7-59, the defendant having consented, a decree of permanent injunction was entered against the defendant enjoining him against the introduction and delivery for introduction into interstate commerce, of any of the 7,500 cases which bore the code numbers 8T50, 8T80, 8T81, 8T82, and 8T90.

26083. Canned tomatoes. (F.D.C. No. 43621. S. No. 68-265 P.)

QUANTITY: 388 cases, 6 6-lb. 6-oz. cans each, at Philadelphia, Pa.

SHIPPED: 8-26-59, from Quantico, Md., by M. W. Acworth & Son, Inc.

LABEL IN PART: (Can) "Penn Tomatoes * * * Packed for Spatola-Thompson, Inc., Phila., Pa."

LIBELED: 10-28-59, E. Dist. Pa.

CHARGE: 402(a)(3)—contained fly eggs and maggots; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 11-24-59. Default—destruction.

26084. Tomato catsup. (F.D.C. No. 43603. S. No. 68-254 P.)

QUANTITY: 598 cases, 24 14-oz. btls. each, at Philadelphia, Pa.

SHIPPED: 9-23-59, from Hammonton, N.J., by C & E Canners, Inc.

LABEL IN PART: (Btl.) "Ideal Hot Tomato Catsup * * * Distributed by American Stores Co., Phila., Pa. Acme Ideal."

LIBELED: 10-16-59, E. Dist. Pa.

CHARGE: 402(a)(3)—contained fly eggs, flies, and maggots when shipped.

DISPOSITION: 12-2-59. Default—destruction.

26085. Tomato sauce. (F.D.C. No. 43443. S. No. 60-743 P.)

QUANTITY: 72 cases, 96 tins each, at Salem, Oreg.

SHIPPED: 2-11-59, from Oakland, Calif., by Veronica Olive Oil Co.

LABEL IN PART: (Tin) "Delicious Brand Tomato Sauce Net Weight 7½ ozs. * * * Distributed by Delicious Food Products, Oakland, Calif."; (case) "8 doz. San Benito Brand * * * Hollister Canning Co. Hollister, California."

RESULTS OF INVESTIGATION: Examination showed the article to be short weight.

LIBELED: 9–15–59, Dist. Oreg.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: 10–28–59. Default—delivered to a public institution.

MEAT PRODUCTS AND POULTRY

26086. Sliced beef with barbecue sauce and sliced pork with barbecue sauce. (F.D.C. No. 43187. S. Nos. 36–293/4 P.)

QUANTITY: 14 cases, 4 jars each, and 29 jars, at Webster Groves, Mo.

SHIPPED: 1–21–59, from Evansville, Ind.

LIBELED: 6–12–59, E. Dist. Mo.; libel amended, 6–17–59.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale.

DISPOSITION: 7–28–59. Default—destruction.

26087. Dressed poultry. (F.D.C. No. 39371. S. Nos. 40–936 M, 40–985/6 M.)

INFORMATION FILED: On or about 1–27–58, N. Dist. Ga., against Cagle's, Inc., Atlanta, Ga.

SHIPPED: 5–12–56 and 5–14–56, from Georgia to Minnesota.

CHARGE: 402(a)(3)—contained fecal matter; and 402(a)(4)—prepared under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 3–3–58. $600 fine.

26088. Dressed poultry. (F.D.C. No. 43779. S. No. 52–644 P.)

QUANTITY: 499 crates, 20 chickens each, at Minneapolis, Minn.

SHIPPED: 6–16–59, from Versailles, Ohio.

LIBELED: 10–23–59, Dist. Minn.

CHARGE: 402(a)(3)—contained decomposed chickens while held for sale.

DISPOSITION: 12–7–59. Default—destruction.

26089. Dressed turkeys. (F.D.C. No. 41891. S. No. 30–048 P.)

QUANTITY: 405 lbs., in 6 crates, at Brooklyn, N.Y.

SHIPPED: 6–10–59, from Valley View, Pa., by Beechwood Farms.

LIBELED: 7–1–58, E. Dist. N.Y.

CHARGE: 402(a)(3)—contained fecal matter and dirt, and extensively torn and bruised birds when shipped; and 402(a)(5)—the article was in whole or in part the product of a diseased animal.

DISPOSITION: 7–30–58. Default—destruction.

NUTS*

26090. Shelled cashew nuts. (F.D.C. No. 43793. S. No. 79–752 P.)

QUANTITY: 14 25-lb. tins at Grand Rapids, Mich.

SHIPPED: 6–26–59 and 8–6–59, from New York, N.Y.

LIBELED: 11–3–59, W. Dist. Mich.

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*See also No. 26005.